

APPEAL NO. 022527
FILED NOVEMBER 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 30, 2002. The hearing officer determined that (1) the compensable injury of _____, does not extend to include a low back injury; and (2) the appellant (claimant) is not entitled to reimbursement for travel expenses for medical treatment at the direction of Dr. B from April 25 through August 18, 2001. The claimant appeals the determinations on sufficiency grounds. The respondent (self-insured) responds that the claimant's appeal is untimely and, in the alternative, urges affirmance.

DECISION

Affirmed.

We first address the self-insured's assertion that the claimant's appeal is untimely. A written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code. Section 410.202(a) and (d). Texas Workers' Compensation Commission (Commission) records indicate that the hearing officer's decision and order was issued on September 6, 2002. The claimant was deemed to have received the decision on September 11, 2002. The last date for the claimant to timely file an appeal was October 3, 2002, and not October 2, 2002, as the self-insured asserts, because September 16, 2002, the optional holiday of Yom Kippur, is excluded from the computation of the 15-day period. The appeal was date stamped as having been received by the Commission on October 3, 2002, and was, therefore, timely.

The hearing officer did not err in reaching the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the challenged determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**HAMMERMAN & GAINER
823 CONGRESS AVENUE, SUITE 300
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Margaret L. Turner
Appeals Judge